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1 Regarding the disclosure material recited on Col. 6, lines 16-24, the inventor states that  
2 "Player 4 enters the location and looks for ongoing games in the vicinity. The display of Fig.  
3 5d is provided to player 4. Player 4 issues a challenge to player 3 as illustrated in Fig. 5(e).  
4 Player 3 accepts and player 3 and player 4 enter into a game of blackjack, for example, as  
5 illustrated in Fig. 5f." The Applicant submits that the game of blackjack is not a 'location-  
6 based software game that uses the physical location from each player to achieve the object of  
7 the game'.

8 Claims 1-12 were also rejected under 35 U.S.C. 103(a) as being obvious based on  
9 Kirkpatrick et al. in view of Rautilla. According to the Examiner, Kirkpatrick discloses all of  
10 the elements recited in Claim 1 except for the inclusion of a wireless telephone, the wireless  
11 communication system, and the location in which the program is stored. Rautila however  
12 discloses the storage of the program both on the server and the wireless device in addition to  
13 the assignment of a wireless telephone to each player. Therefore, it would have been obvious  
14 to incorporate the game storage methods and wireless telephone aspects of Rautila in the  
15 invention of Kirkpatrick in order to enhance the player communication through the use of  
16 wireless telephones in the game of Rautila. In response, the Applicant disagrees and requests  
17 reconsideration.

18 First, the Applicant disagrees that incorporating the game storage method and  
19 wireless aspects of Rautila would enhance communication when Kirkpatrick clearly states  
20 that GPS systems do not operate indoors. Therefore, the Examiner's reasoning is  
21 unsupported.

22 Second, the Applicant disagrees with the Examiner's simplification that Kirkpatrick  
23 discloses the invention recited in Claim 1 except for the inclusion of wireless telephone, a

1 wireless system, and the location in which the program is stored. Instead, Kirkpatrick teaches  
2 a complex tracking system that allows players to be tracked both inside and outside a  
3 building. In order to accomplish this feature, the system uses a unique indoor tracking system  
4 and an outdoor positioning system that determines the physically location of a plurality of  
5 players located inside and outside a building. When tracking players outside the building, a  
6 GPS-based system may be used. Because a GPS-based system can not be used indoors, a  
7 unique indoor tracking system that uses a central communication unit located at a  
8 predetermined position inside the building that determines the locations of the player's  
9 transmitters must be used. Because the communication center is used to track the location of  
10 the players, the location information for the other players must be delivered from the  
11 communication center. Thus, when playing a war game using Kirkpatrick's system, the  
12 location of the individual players is not transmitted to the users but instead to the  
13 communication center.

14 Because the location of each player is not delivered to the other players during the  
15 course of the game, the players do not know the precise location of the other players. They  
16 must wait for the information from the communication center. The Applicant submits this  
17 substantially changes the nature of the games that can be played with the system.

18 Another important difference is that Kirkpatrick does not use a wide area computer  
19 network coupled to the wireless communication network. As a result, outside players or  
20 observers are not able to watch the game activity.

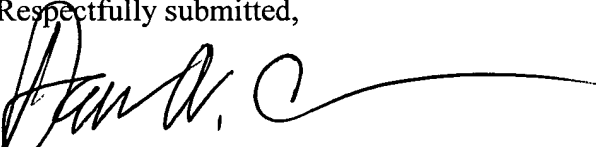
21 A further important difference is that with Applicant's invention, the location based  
22 software game may be loaded into the working memory of the wireless telephone (See Claim  
23 1) or into the working memory of the central computer connected to a wide area network (See

1 Claim 3). These two features allows the game to be played either between two mobile users  
2 or between a mobile user and a non-mobile user of the central computer. Loading the  
3 program into the memory of the central computer also allows other non-mobile users or  
4 observers to monitor the game live.

5 For all of the above reasons, Claims 1-7 and 9-12 should be regarded as novel and  
6 non-obvious over the prior art of record.

7 2. Corrections of Drawings: The drawing objections are noted and formal drawings will  
8 be submitted after allowance.

9  
10 Respectfully submitted,

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12 DEAN A. CRAINE

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15 Attorney for Applicant  
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